# PATENT COOPERATION TREATY

# **PCT**

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PCT05B01	FOR FURTHER ACTION	See item 4 below	
International application No. PCT/JP2005/016824	International filing date (day/month/year) 13 September 2005 (13.09.2005)	Priority date (day/month/year) 14 September 2004 (14.09.2004)	
	ternational Patent Classification (8th edition unless older edition indicated) see relevant information in Form PCT/ISA/237		
Applicant HOSODA SHC INC.			

1.	This international preliminary re International Searching Authoric	eport on patentability (Chapte ty under Rule 44 bis.1(a).	er I) is issued by the International Bureau on behalf of the
2.	This REPORT consists of a tota	l of 7 sheets, including this c	over sheet.
	In the attached sheets, any refere to the international preliminary		f the International Searching Authority should be read as a reference ter I) instead.
3.	This report contains indications	relating to the following iten	ns:
:	Box No. I	Basis of the report	
	Box No. II	Priority	
	Box No. III	Non-establishment of opi	nion with regard to novelty, inventive step and industrial
	Box No. IV	Lack of unity of invention	n
	Box No. V		r Article 35(2) with regard to novelty, inventive step or industrial d explanations supporting such statement
	Box No. VI	Certain documents cited	
	Box No. VII	Certain defects in the inte	ernational application
	Box No. VIII	Certain observations on t	he international application
4.	The International Bureau will conot, except where the applicant date (Rule 44bis .2).	ommunicate this report to des makes an express request und	signated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but der Article 23(2), before the expiration of 30 months from the priority
			Date of issuance of this report 20 March 2007 (20.03.2007)
	The International Bure		Authorized officer
	34, chemin des Col 1211 Geneva 20, Sv		Yoshiko Kuwahara

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Facsimile No. +41 22 338 82 70 Form PCT/IB/373 (January 2004)

### PATENT COOPERATION TREATY

TRANSLATION From the INTERNATIONAL SEARCHING AUTHORITY To: WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1) Date of mailing (day/month/year) Applicant's or agent's file reference FOR FURTHER ACTION **PCT05B01** See paragraph 2 below International filing date (day/month/year) International application No. Priority date (day/month/year) PCT/JP2005/016824 13.09.2005 14.09.2004 International Patent Classification (IPC) or both national classification and IPC Applicant HOSODA SHC INC. This opinion contains indications relating to the following items: Box No. I Basis of the opinion Box No. II Priority Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability Box No. IV Lack of unity of invention Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement Box No. VI Certain documents cited Box No. VII Certain defects in the international application Box No. VIII Certain observations on the international application **FURTHER ACTION** If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered. If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later. For further options, see Form PCT/ISA/220. For further details, see notes to Form PCT/ISA/220. Name and mailing address of the ISA/JP Date of completion of this opinion Authorized officer

Telephone No.

Facsimile No.

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Box	x No.	I Basis of this opinion	
1.	337:4	th regard to the language, this opinion has been established on the basis of:	
'.	W.	the international application in the language in which it was filed	
	ш	the translation of the international application into translation furnished for the purposes of international search (Rule 12.3(a) and 23.1(b)).	, which is the language of a
		tunioni i i i i i i i i i i i i i i i i i	
2.		th regard to any nucleotide and/or amino acid sequence disclosed in the internation ention, this opinion has been established on the basis of:	nal application and necessary to the claimed
	a.	type of material	
		a sequence listing	
ŀ		table(s) related to the sequence listing	
	b.	format of material	
		on paper	
		in electronic form	
	c.	time of filing/furnishing	
		contained in the international application as filed	
		filed together with the international application in electronic form	
		furnished subsequently to this Authority for the purposes of search	
3.		In addition, in the case that more than one version or copy of a sequence listing and furnished, the required statements that the information in the subsequent or additional filed or does not go beyond the application as filed, as appropriate, were furnished.	For table(s) relating thereto has been filed or copies is identical to that in the application as
4.	Ada	ditional comments:	
1			

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Box	No. I	V Lack of unity of invention
1.		In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has, within the applicable time limit:
		paid additional fees
		paid additional fees under protest and, where applicable, the protest fee
		paid additional fees under protest but the applicable protest fee was not paid
		not paid additional fees
2.	$\boxtimes$	This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3.	This	Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is
		complied with
	$\boxtimes$	not complied with for the following reasons:
		The matter common to claims 1-9 is a Gnetum extract.  As a result of survey, however, the Gnetum extract and cosmetic products containing the said extract have been found not to be novel, since they are disclosed in document 1 [JP 2002-080372 A (L'Oreal), 19 March, 2002 (19.03.02), & EP 1175888 A2, & CA 2354107 A1, & FR 2812195 A1, & US 2002/0051799 A1] and document 2 [JP 11-060450 A (Sunstar Inc.) 1999.03.02 (Family: none)].  Since the common matter belongs to the prior art, it is not a special technical feature in the sense of the second sentence of PCT Rule 13.2.  Therefore, there is no matter common to all of the claims, and the aforesaid groups of subject matters are not considered to be a group of inventions so linked as to form a single general inventive concept.  However, no payment of additional fees is required since we were able to finish our survey on all the claims requiring research without incurring the need to invite the applicant to pay such additional fees.
4.	Con ⊠	sequently, this opinion has been established in respect of the following parts of the international application:  all parts the parts relating to claims Nos.

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Box No. V Reasoned statement under Rule 43bls.1(a)(l) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement				
1.	Statement			
	Novelty (N)	Claims	2-8	YES
		Claims	1, 9	NO
	Inventive step (IS)	Claims		YES
		Claims	1-9	NO
	Industrial applicability (IA)	Claims	1-9	YES
		Claims		NO

#### 2. Citations and explanations:

Document 1: Shiv K., et al., Cyclopropene fatty acids in Gnetum gnemon (L.) seeds and leaves, J.Sci.Food Agric. (1980), Vol. 31, No. 7, pages 657-662

Document 2: E. U. Isong et al., Nutritional and phytogeriatological studies of three varieties of Gnetum africanum ('afang')., Food Chemistry (1999), Vol. 64, pages 489-493

Document 3: Iliya I. et al., Three new trimeric stilbenes from Gnetum gnemon., Chem. Pharm. Bull. (Tokyo). (2003), Vol. 51, No. 1, pages 85-88

Document 4: JP, 2002-080372, A (L'Oreal), 19 March, 2002 (19.03.02), & EP 1175888, A2, & CA 2354107, A1, & FR 2812195, A1, & US 2002/0051799, A1

Document 5: JP, 11-060450, A (Sunstar Inc.) 2 March, 1999 (02.03.99) (Family: none)

## Claim 1:

The subject matter of claim 1 does not appear to be novel in view of document 1.

Document 1 discloses that the seed in the hull of Gnetum is roasted or boiled and unhusked before consumption, and that the seed is crushed to make cakes, biscuits, and emping, and that cyclopropene fatty acid (CPFA) has been obtained from an ester extract of Gnetum.

### Claims 1-8:

The subject matters of claims 1-8 do not appear to involve an inventive step in view of documents 1-3.

Document 2 describes the differences in nutritional compositions among different kinds of Gnetum, and also that feeding rats with a diet containing Gnetum leaves has demonstrated better nutritional results.

Document 3 describes that Gnetum has been found to be a significant functional food from the fact that a novel compound with superoxide scavenging activity has been discovered by extracting Gnetum roots using acetone and methanol, and further from the fact that, apart from the newly found compound, Gnetum exhibits a variety of other superoxide scavenging activities and such effects as a lipid peroxide inhibition effect, blood sugar count suppression effect, and anti-inflammatory effect.

The consumption of Gnetum seeds is considered to have been well known prior to the filing date of the present application (see the background art of the present specification and document 1). So, a person skilled in the art could have easily conceived of extracting an essence from Gnetum seeds, as well as adding the essence to various foods for nutritional enhancement, using a compound liquid of ethanol and water, which is widely known to be used for extracting active ingredients from

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Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

such natural products as plants, on the assumption that, since documents 1-3 respectively describe that Gnetum seeds, leaves, and roots exert physiological activities, Gnetum seeds too should contain the same active ingredients as those found in the leaves and roots.

Meanwhile, the effect of the subject matters of claims 1-8 is considered to be such that a person skilled in the art could have predicted.

### Claim 9:

The subject matter of claim 9 does not appear to be novel in view of document 4.

Document 4 also describes that a composition containing glycosylated hydroxystilbene extracted from plants of the Gnetum family is used for protecting the skin from pigment deposition, for preventing signs of aging of the skin and hair follicle, for improving the complexion of the face, for smoothening the facial skin, for preventing or taking care of lines and fine-wrinkles, and for activating the epidermal regeneration process.

### Claim 9:

The subject matter of claim 9 does not appear to be novel in view of document 5.

Document 5 describes a hair-growing cosmetic containing an extraction liquid of a plant of

the genus Gnetum of the Gnetum family.

This hair-growing cosmetic cannot be distinguished from the cosmetic of claim 9 of the present application as there is a description, "the health-promoting functions include...growing hair and preventing fallen hair", in paragraph number [0039] of the present specification.

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Certain	Certain published documents (Rule 43bis.1 and 70.10)				
_	Application No. Patent No.	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid cla (day/month/year)	
J	TP 2005-023000 A [EX]	27.01.2005	30.06.2003		
			•		
Non-w	ritten disclosures (Rule 43bis.1 and 70.9	<u> </u>			
_	Kind of non-written disclosure	Date of non-written di (day/month/yea	isclosure referring	e of written disclosure g to non-written disclosure (day/month/year)	